

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1269

Introduced by Assembly Member Wiggins

February 21, 2003

~~An act to amend Section 104161.1 of the Health and Safety Code, relating to cancer. An act to add Chapter 31 (commencing with Section 22945) to Division 8 of the Business and Professions Code, relating to tobacco.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1269, as amended, Wiggins. ~~Breast and Cervical Cancer Treatment Program: eligibility~~ Tobacco products.

Under existing law, every person, firm, or corporation that knowingly furnishes a tobacco product to a minor is guilty of a misdemeanor or subject to a civil action. Under existing law, every person or business that offers video games to the public for intended use by minors that contain paid advertisements for alcohol or tobacco products is guilty of a misdemeanor.

This bill would prohibit the owner or operator of a retail store from advertising cigarettes in the interior of the store, except by reference to brand and price. The bill would provide an exception for a business that excludes persons under 18 years of age. The bill would make the violation of this requirement subject to the imposition of civil penalties.

This bill would also prohibit cigarette manufacturers and importers from conditioning monetary payments or other inducements to cigarette retailers or their customers on specified conduct. The bill would provide

that each violation of this provision would be subject to specified civil penalties.

~~Existing law requires the State Department of Health Services to develop the Breast and Cervical Cancer Treatment Program to expand and ensure quality breast and cervical cancer treatment for low-income uninsured and underinsured individuals who are diagnosed with breast or cervical cancer. Existing law authorizes the department to contract with public or private entities to implement this program, or to utilize existing health care services provider enrollment and payment mechanisms, including the Medi-Cal program's fiscal intermediary, as specified.~~

~~Existing law provides that when an individual is made eligible for treatment services under the program due to a diagnosis of breast cancer, the period of coverage shall not exceed 18 months, and when an individual is made eligible for treatment due to a diagnosis of cervical cancer, the period of coverage shall not exceed 24 months.~~

~~This bill would extend the period of eligibility for treatment services for breast cancer to 24 months.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 104161.1 of the Health and Safety Code~~
 2 *SECTION 1. The Legislature hereby finds and declares all of*
 3 *the following:*

4 *(a) In 1998 in an effort to dilute the marketing power of tobacco*
 5 *manufacturers and limit children's exposure to tobacco*
 6 *advertising, the State of California entered into the "Master*
 7 *Settlement Agreement" (MSA), which banned all outdoor*
 8 *advertising of tobacco products.*

9 *(b) The effect of the ban on outdoor advertising of tobacco*
 10 *products is the emergence of the retail outlet as the single most*
 11 *important venue for advertising tobacco products and as the*
 12 *primary venue for children to be exposed to tobacco products and*
 13 *advertising.*

14 *(c) According to the Federal Trade Commission, tobacco*
 15 *companies' spending on point-of-purchase advertising and*
 16 *marketing has increased from \$856 million in 1987 to over \$3.5*

1 billion in 1999, and increased 23 percent in the first year following
2 adoption of the MSA.

3 (d) A recent study of retail outlets in California found that 94
4 percent feature tobacco advertising.

5 (e) A 1999 study in the U.S. Distribution Journal found that
6 three out of four teens visit a convenience store at least once a week
7 and that teens are far more likely than adults to be influenced by
8 promotional material in convenience stores.

9 (f) Therefore, in order to protect the health and safety of citizens
10 of the State of California, it is imperative to limit the exposure of
11 children to tobacco related advertising at the retail level and to
12 restrict the ability of tobacco manufacturers to control the
13 advertising and display of tobacco products in retail outlets
14 through monetary payments or discounts.

15 SEC. 2. Chapter 31 (commencing with Section 22945) is
16 added to Division 8 of the Business and Professions Code, to read:

17
18 CHAPTER 31. TOBACCO PRODUCTS
19

20 22945. (a) The owner or operator of a retail store may
21 advertise cigarettes in the interior of the store only by reference to
22 brand and price of the advertised product. All other slogans,
23 symbols, logos, graphics, and pictorial advertising associated
24 with a specific brand of cigarette product are prohibited. However,
25 this subdivision does not prohibit advertising located in the
26 interior of a business that excludes persons under 18 years of age.

27 (b) The owner or operator of a retail store who violates
28 subdivision (a) is subject to the imposition of civil penalties. A
29 district attorney or city attorney may assess civil penalties against
30 retail storeowner who violates this section in the amount of two
31 hundred fifty dollars (\$250) for the first violation and five hundred
32 dollars (\$500) for each subsequent violation. Moneys collected as
33 civil penalties shall be forwarded to and deposited in the State
34 Treasury, to the credit of the Sale of Tobacco to Minors Control
35 Account.

36 22946. (a) It is unlawful for a cigarette manufacturer or
37 importer, directly or indirectly, to condition monetary payments or
38 other inducements to a cigarette retailer, or its customers, or to
39 condition a cigarette retailer's participation in, or receipt of, a

1 manufacturer's or importer's cigarette promotions, on any of the
2 following:

3 (1) The retailer's allocation to the manufacturer or importer of
4 a specified percentage or proportion of the retailer's cigarette
5 display, signage, or advertising space.

6 (2) The retailer's allocation to other cigarette manufacturers or
7 importers of a specified percentage, proportion, or amount of the
8 retailer's cigarette display, signage, or advertising space.

9 (3) The retailer's allocation of not more than a specified
10 percentage, proportion, or amount of the retailer's space to
11 cigarette display, signage, or advertising generally.

12 (4) Limits to the retailer's participation in other cigarette
13 manufacturer's or importer's price or other promotional program.

14 (5) The location, placement, format, or content of any display,
15 signage, or advertising of other cigarette manufacturers or
16 importers.

17 (6) The retailer's ability to set the retail price of products of the
18 manufacturer or importer alone or in relation to the price charged
19 for other products.

20 (b) Any contract or agreement that violates subdivision (a) is
21 void and unenforceable to the extent that it provides for activity
22 prohibited by this subdivision.

23 (c) A district attorney or city attorney may assess civil penalties
24 against a person or business entity that violates subdivision (a) in
25 either the amount equal to the inducement or ten thousand dollars
26 (\$10,000), whichever is greater. Moneys collected as civil
27 penalties shall be forwarded to and deposited in the State Treasury
28 to the credit of the Sale of Tobacco to Minors Control Account.

29 SEC. 3. The provisions of this act are severable. If any
30 provision of this act or its application is held invalid, that
31 invalidity shall not affect other provisions or applications that can
32 be given effect without the invalid provision or application.

33 is amended to read:

34 ~~104161.1. When an individual is made eligible for treatment~~
35 ~~services under this article due to a diagnosis of breast cancer or~~
36 ~~cervical cancer, the period of coverage shall not exceed 24 months.~~
37 ~~After 24 months, the individual's eligibility for treatment services~~
38 ~~for the cancer condition that made this individual eligible~~
39 ~~concludes.~~

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2 CORRECTIONS
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